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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/516,655	03/01/2000	Thomas C. Thompson		3209

7590
Thomas C Thompson
92-543 Kokole PLace
Makakilo, HI 96707

10/19/2005

EXAMINER

GARCIA, ERNESTO

ART UNIT PAPER NUMBER

3679

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/516,655

Applicant(s)

THOMPSON, THOMAS C.

Examiner

Ernesto Garcia

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 15-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15, 16 and 18-23 is/are allowed.
- 6) ☐ Claim(s) 1, 3-10 and 17 is/are rejected.
- 7) ☒ Claim(s) 2, 8-10 and 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 May 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Drawings

The drawings were received on 05/19/04 drawings are not acceptable because the drawings do not comply with 37 CFR 1.121. In particular, the changes to the drawings shall be explained, in detail, in either the drawing amendment or remarks section of the amendment paper.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "39" and "40" in Figure 5 have both been used to designate the same plate.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "44" and "45" in Figure 6 have both been used to designate the interface of the sheathing tab 30 and the strengthening tab 32.

The drawings are objected to because reference character 44 does not depict a grommet. Further, reference character 45 does not depict a hollow rivet. The bracket

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shown adjacent to reference character "T" in Figures 2 and 6 is misleading. Is "T" depicting top plates or a top plate? Applicant should consider using lead lines as brackets are only used to show the components that belong to an exploded figure.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the outside wall (claim 10, line 3) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Applicant has only shown an outside wall sheathing **W**.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended". If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) must be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the

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applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities.

The description of reference character W is not consistent. In several instances, "W" is an outside wall sheathing (see page 15, 2nd paragraph, line 3) and an outside wall (see page 16, 3rd paragraph, line 4). Therefore, the description is not consistent. Further, the disclosure fails to provide a "Brief Summary of the Invention". Appropriate correction is required.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: "attaching means to the outside wall and underlying to plate" recited in claim 10, lines 3-4 lack proper antecedent basis.

Claim Objections

Claims 1, 3, 4, 6, 9, 10, and 17 are objected to because of the following informalities:

regarding claim 1, "web" in line 13 should be --webs--; and,

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regarding claims 3 and 4, these claims do not further limit the connector as these limitations are inherent features of the first acute angled bend in claim 1, line 9-10, and the unequal acute angled bend in claim 1, line 10-11;

regarding claim 6, "said roof" should be --a roof-- as a roof has not been previously recited;

regarding claim 9, --a-- needs to be inserted after "or" in line 3, and "said" in line 4 needs to be --a-- as "said house" lacks proper antecedent;

regarding claim 10, --the-- in line 3 should be --an--, --an-- needs to be inserted before "underlying top plate" in line 3, the first occurrence of "the" in line 4 should be --a-- as a roof rafter has not been previously recited, the second occurrence of "the" in line 4 should be deleted as frieze boards have not been previously recited, --a-- needs to be inserted before "blocking" in line 4, and --the-- needs to be inserted before "roof" in line 6 as this is the same roof recited in claim 1, line 3; and,

regarding claim 17, --the-- needs to be inserted before "wall" in line 4 as this is the same wall recited in claim 15, line 4, and "the roof" in lines 5-6 should be --a roof-- as a roof has not been previously recited. Appropriate correction is required. For purposes of examining the instant invention, the examiner has assumed these corrections have been made.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6-10 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 6, how does the limitation "providing a buttress between said roof rafter and said wall" in lines 4-5 further limit the connector when the wall is not part of the invention?

Regarding claim 7, how does the blocking webs, as previously indicated as having right angled bends, divide the blocking webs into equal left and right blocking webs? The claim appears to say the blocking webs divide the blocking webs in half but it is unclear how it is done.

Regarding claim 8, it is unclear from what features are the rafter tabs vertical and parallel from.

Regarding claim 9, it unclear whether the frieze boards and the blocking on a house are being claimed in combination with the connector. Since the blocking webs are being further defined as being parallel to the frieze boards or the blocking on the house, it appears that the frieze boards, the house, and the blocking on the house are being claimed. Appropriate correction, clarification, or both is required.

Regarding claim 10, the limitation "attaching means to the outside wall and --an-- underlying top plate, etc." in lines 3-4 is unclear as something is missing from the claim. Further, it is unclear what structure corresponds to the attaching means. The disclosure fails to indicate what is the attaching means.

Regarding claim 17, how does the limitation "forming a buttress between a roof rafter and --the-- wall" in lines 4-5 further limit the connector when the wall is not part of the invention?

Claim Rejections - 35 USC § 102

Claims 1 and 3-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Way, Sr., 5,813,173 (see marked-up attachments provided in the last Office action).

Regarding claim 1, Way, Sr. discloses in Figures 3, 4 and 6 a unitary connector comprising a base web **18** (the right one in Fig. 4), offset, angled, blocking webs **A2** (Fig. 3), and an offset web **16**. The blocking webs **A2** each have a generally right angled bend **A3** forming a rafter tab **A4** (Fig. 6). The base web **18** and each of the blocking webs **A2** are connected by the offset web **16**. The offset web **16** has a first acute angled bend **A6** attached to the base web **18** and a second, unequal, acute

angled bend **A7** attached to the blocking webs **A2**. The rafter tabs **A4** (Fig. 6) are generally perpendicular to the blocking webs **A2**.

The connector is able to retrofit onto existing buildings and help prevent hurricane and earthquake damage by positively connecting a roof to a wall.

Regarding claim 3, the offset web **16** is connected to the base web **18** by the first acute angled bend **A6** at an acute angle.

Regarding claim 4, the offset web **16** is connected to the blocking webs **A2** by the second, unequal, acute angled bend **A7** at an unequal acute angle.

Regarding claim 5, the first acute angled bend **A6** and the second, unequal, acute angled bend **A7** are attached to opposite ends of the offset web **16**, and have generally unequal acute bends in opposite directions.

Regarding claim 6, as best understood, the first acute angled bend **A6**, the second, unequal, acute angled bend **A7**, and the offset web **16** form the base web **18** and the blocking webs **A2** are unparallel to each other.

Regarding claim 7, the blocking webs **A2** divide the blocking webs **A2** into generally equal left and right blocking webs **A2**.

Allowable Subject Matter

Claims 15-16 and 18-23 are allowed.

Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 8-10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 17 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

The following is a statement of reasons for the indication of allowable subject matter:

regarding claim 2, the prior art of record does not disclose or suggest an apparatus comprising a base web with nail holes (line 3);

regarding claim 8, as best understood, the prior art of record does not disclose or suggest an apparatus comprising rafter tabs being parallel to each other (line 2) and having each nail holes (line 3);

regarding claim 9, this claim depends from claim 8;

regarding claim 10, as best understood, the prior art of record does not disclose or suggest an apparatus comprising a base web, rafter tabs, and blocking webs having attaching means (the nail holes);

regarding claim 15, the prior art of record does not disclose or suggest an apparatus comprising offset, angled, blocking tabs having each a sheathing tab attached at a generally right angled bend (lines 10-11); and,

regarding claims 16-23, these claims depend from claim 15.

Response to Arguments

Applicant's arguments filed 5/10/04 have been fully considered but they are not persuasive.

Applicant has argued that Way's rafter tabs are not bent at a general right angle. In response, applicant should note that the claims do not call for a right angle bent as opposed to a "generally right angle bend" recited in claim 1, lines 5-6. Ways rafter tabs are generally right angled to the blocking webs. Further, the added limitation "said rafter tabs are generally perpendicular to the blocking web (*vis.* webs)" does not indicate that

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the rafter tabs are perpendicular to the blocking webs, but rather allows variation or places the rafter tabs close to being perpendicular.

In respect to claim 3, applicant has argued that Way bends the metal four times at acute angles, and twice at obtuse angles at the lip and so the claim only refers to just two acute angles. In response, applicant's claims are not drafted as close ended claims. The language "comprising" in claim 1, line 3 does not exclude other features from being recited in the claims. Further, it is clear that Way's invention has a first acute angled bend, a second acute angled bend, and more than two angled bends.

In respect to claim 5, applicant has indicated that the limitation "but generally vertical" was added to claim 5. In response, applicant should note that the current amendment does not contain this limitation and therefore the argument is out of scope.

In respect to claim 6, the argument is moot in view of new grounds of rejection.

In respect to claim 7, applicant has argued that Way has no right angle bends. In response, applicant should note that this limitation is not in the claim but rather the claim recites "a generally right angle bends". Although Way's does not teach exactly right angle bends, the angle bends in Way are generally right angled.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 571-272-7083. The examiner can normally be reached from 9:30-5:30. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached at 571-272-7087.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

E.P.

E.G.

October 11, 2005



DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600